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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,942	06/08/2001	Charles A. Porter	PU010084	9076

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EXAMINER
SAIN, GAUTAM

ART UNIT	PAPER NUMBER
2176	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/876,942	PORTER ET AL.
		Examiner	Art Unit
		Gautam Sain	2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 May 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1)　　35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-21 set forth non-functional description material but fail to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (ie., a computer) to produce a "useful, concrete and tangible" result. For example, the "system," "method," and "the program" reads on mental construct/abstract idea or at best a computer program, per se. The language such as "carrier waver" does not clearly define structural elements and are not tangibly embodied on a computer readable medium. Claims 1-21 are interpreted as software per se, abstract ideas or mental construct and not tangibly embodied on a computer readable medium or hardware..

Claim Rejections - 35 USC § 103

2)　　The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2-1)   Claims 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21 are

rejected under 35 U.S.C. 103(a) as being unpatentable over <u>Jacobs</u> (US 6225995,

filed Oct 21, 1997), in view of <u>Eyal</u> (US 6389467, filed May 2, 2000, as cited in an

IDS).

Regarding claim 1, Jacobs teaches "analyzing each field ... each field," and

"adding ... metadata" (ie., URI ... identify the metadata associated with browser request

... send a revised browser message)(col 21, line 40 – col 22, line 15; Summary; col 2,

line 65 – col 3, line 20).

Jacobs does not expressly teach "streaming" but Eyal does teach streaming

media playback on a network (col 5, lines 60-65) and metadata extraction module

accesses for each link to extract metadata about the identified media link (col 6, lines 3-

10).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Jacobs to include streaming media playback on a network where the

metadata extraction module accesses for each link to extract metadata about the

identified media link as taught by Eyal, providing the benefit of providing streaming

media on the internet reliably when the number of users accessing the site become

congested (col 2, lines 15-48).

Regarding claim 2, Jacobs does not teach, but Eyal teaches "reorganizing said

plurality ... reorganized plurality of fields" (ie., organize media clips according to an

order ... listed together or listed before less preferred clip ...)(col 29, lines 40-57).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Jacobs to include organizing media clips as taught by Eyal,

providing the benefit of accessing streaming media on the Internet where users search

for selected media creations and results are outputted to the user as a display of links

(Eyal, col 1, lines 15-47).

Regarding claim 5, 18, Jacobs does not expressly teach, but Eyal teaches

"analyzing each field ... identified for a field" (ie., determine if structure is empty.

Continue parsing until empty)(col 22, lines 18-66).

Eyal teaches "adding said associated metadata ... been identified" (ie., updating

the rating field for the media recording)(col 30, lines 52-60).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Jacobs to include continuing parsing until the structure is empty and

updating the rating field for media as taught by Eyal, providing the benefit of accessing

streaming media on the Internet where users search for selected media creations and

results are outputted to the user as a display of links (Eyal, col 1, lines 15-47).

Regarding claim 6, 19, Jacobs teaches "adding a contents ... metadata" (ie.,

server initiates an operation to incorporate information to the URL)(col 2, line 55 – col 3,

line 20).

Regarding claim 7, 12, 14, 20, Jacobs teaches "replacing ... terms ... original

metadata" (ie., server extracts information from the URL and uploads information into a

URL)(col 3, lines 5-22).

Regarding claim 8, 21, Jacobs does not teach, but Eyal teaches "elements related to at least one of content of the media" (ie., media from the network)(col 1, lines 50-67; summary).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jacobs to include media from the network as taught by Eyal, providing the benefit of accessing streaming media on the Internet where users search for selected media creations and results are outputted to the user as a display of links (Eyal, col 1, lines 15-47).

Regarding claim 9, Jacobs does not teach but Eyal teaches "media comprises multimedia" (ie., multimedia)(col 13, line 47).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jacobs to include multimedia as taught by Eyal, providing the benefit of accessing streaming media on the Internet where users search for selected media creations and results are outputted to the user as a display of links (Eyal, col 1, lines 15-47).

Regarding claims 11, 13, 15, Jacobs does not teach, but Eyal teaches ... *reorganizing said plurality of fields* (ie., organize media clips according to an order ... listed together or listed before less preferred clip ...)(col 29, lines 40-57). Jacobs teaches *URI* and *original metadata* (ie., URI)(Jacobs, col 21, lines 40-45).

Jacobs teaches *analyzing each field ... each field* and *adding ... metadata* (ie., URI ... identify the metadata associated with browser request ... send a revised

browser message)(col 21, line 40 – col 22, line 15; Summary; col 2, line 65 – col 3, line 20).

Jacobs does not expressly teach "streaming" but Eyal does teach streaming media playback on a network (col 5, lines 60-65) and metadata extraction module accesses for each link to extract metadata about the identified media link (col 6, lines 3-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jacobs to include organizing media clips as taught by Eyal, providing the benefit of accessing streaming media on the Internet where users search for selected media creations and results are outputted to the user as a display of links (Eyal, col 1, lines 15-47).

2-2)   Claims 3, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over <u>Jacobs</u> (as cited above), in view of <u>Eyal</u> (as cited above), further in view of <u>Gabriel</u> (US 6584468, filed Sep 29, 2000, Application No 09675594).

Regarding claim 3, 16, Jacobs in view of Eyal does not teach, but Gabriel teaches "reorganizing said ... reverse order" (ie., ranking and selection process could be reversed)(col 6, lines 25-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jacobs in view of Eyal to include reverse the ranking process as taught by Gabriel, providing the benefit of indexing network information with searches for files of information relevant to people and resources using weighted links (Gabriel, Abstract section).

Response to Arguments

Applicant's arguments filed 9/16/04 have been fully considered but they are not persuasive. Applicant argues that Jacobs does not disclose, suggest or teach analyzing each field of a URI associated with streaming media for the purpose of identifying associated metadata associated with said each analyzed field.   Examiner disagrees, first, the language "to identify metadata associated with each of the fields" is interpreted as mere functional language and not having limiting weight to the process element it modifies such that the prior art need only anticipate the limiting process elements of the claim and need not anticipate the use associated with the element. To deal with the "streaming" amendment, the Examiner uses the Eyal reference to reject those portions of the limitations (see rejections above of the independent claims) and asserts a new line of rejection (from 35 USC 102 to 35 USC 103). Examiner interprets the claims with the broadest reasonable interpretation and finds them to read on the Jacob reference. For example, "media" is interpreted to include any "computer-readable medium" (optical, dynamic memory, acoustic or light waves, etc., ...)(see Jacobs, col 5, lines 13-25). The Examiner interprets metadata stored in the database (item 258, fig 6) and server to associate with the media (see col 9, lines 28-44, shows fields such as cartridge name, object identifier). Furthermore, Examiner broadly interprets the claimed term "analyzing" and "associated" to be substantially equivalent to the state information, which is assembled into a URL and extracted by the server, transmitted back and forth between the client and server to further operations based on the client request (see Jacobs col 2, lines 55 – col 3, lines 22).

Additionally, the Examiner broadly interprets adding associate metadata to original as an updating feature equivalent to (see Jacobs) the resource manager updating rows (Jacobs, col 13, line 64). This is updating rows in the database of the metadata which is assembled into a URL. Updating is interpreted to adding information/metadata to the data that is originally in the database.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam Sain whose telephone number is 571-272-4096. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GS

WILLIAM BASHORE
PRIMARY EXAMINER

7/18/2005